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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Internally displaced persons

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report prepared by the representative of the Secretary-General on internally displaced persons, Mr. Francis Deng (Sudan), in accordance with Commission on Human Rights resolution 1995/57 of 3 March 1995 and Economic and Social Council decision 1995/273 of 25 July 1995.

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ANNEX

Report on internally displaced persons, prepared by the representative of the Secretary-General, in accordance with Commission on Human Rights resolution 1995/57 and Economic and Social Council decision 1995/273

1. Since the appointment of the representative of the Secretary-General on internally displaced persons in 1992, his activities have been documented in a series of substantive reports to the General Assembly and to the Commission on Human Rights. The latest comprehensive report was submitted to the Commission at its fifty-second session in March 1996 (E/CN.4/1996/52 and Add.1 and 2). To avoid unnecessary repetition, the representative deems it more appropriate to submit to the General Assembly a brief update, placing emphasis on the latest developments, and to submit to the Assembly his report on Tajikistan, where he undertook his most recent mission in early June 1996.

2. Over the past year, the representative has continued to be actively engaged in three main areas of work. The first is the development of an appropriate normative framework for meeting the needs of the internally displaced. The second area is the promotion of effective institutional arrangements for meeting the challenges of protecting and assisting the internally displaced. The third one is the undertaking of visits to countries with serious problems of internal displacement in order to promote dialogue with Governments and other actors involved in addressing the needs of the internally displaced, drawing lessons from previous experiences, and seeking to improve conditions on the ground.

3. With respect to the normative framework, the representative is considering how to address the weaknesses and gaps in international law that undermine coverage for the internally displaced. After several years of intensive work on the part of academic institutions and experts, a compilation and analysis of legal norms was prepared and submitted by the representative to the Commission in 1996 (E/CN.4/1996/52/Add.2). The compilation and analysis examined the relevant provisions of international human rights law, humanitarian law and refugee law by analogy, and their applicability to the protection and assistance needs of the internally displaced. The compilation and analysis confirms that, while existing law provides substantial coverage for internally displaced persons, there are significant areas in which it fails to provide adequate protection and which require remedy through restatement of existing law and clarification of its provisions in one document. This would serve several useful purposes. It would consolidate in one place existing norms that at present are too dispersed and diffuse to be effective. It would also call attention to the need for the better implementation of existing norms and assist the work of Governments, international organizations and non-governmental organizations in the field in protecting and promoting the rights of internally displaced persons. In addition, it would serve the educational purpose of increasing international awareness of the situation of the internally displaced.

4. The Commission on Human Rights, at its fifty-second session, called for the wide dissemination of the compilation and analysis of legal norms. Subject to the availability of funds, it should be available in the working languages of

the United Nations in the near future. The Commission also called upon the representative to continue, on the basis of the compilation and analysis, to develop an appropriate framework for the protection of internally displaced persons. The representative, accordingly, has been studying the specific form such a framework might take, and is in the process of developing a body of guiding principles. A meeting of legal experts was held at Geneva in June 1996 to develop the guiding principles. A further meeting was convened in October 1996, also at Geneva, in which United Nations agencies and non-governmental organizations participated, to discuss the principles. A meeting of lawyers from the various geographic regions will be hosted by the Government of Austria at Vienna in 1997 to review the draft principles.

5. It should be noted that the guiding principles will address all phases of displacement, including its prevention. To this end, a separate study is being prepared on the content and limitations of a right not to be displaced, which will provide the basis for the development of guiding principles pertaining to the pre-displacement phase. The guiding principles will thereby comprise the norms applicable before internal displacement occurs, those that apply in situations of internal displacement and those that apply to the post-displacement phase. It is the objective of the representative that the framework developed should provide an explicit, adequate and firm basis for the protection of and the provision of assistance to the internally displaced and that it be strongly supported by the international community.

6. The analysis and evaluation of existing institutional arrangements relevant to the internally displaced also reveal serious gaps. While there is no institution with an exclusive or full mandate for the internally displaced, there is also no political will to create a new institution or to mandate an existing one to assume full responsibility. The collaborative approach remains the only feasible option, but it is often constrained by problems of coordination, neglect of protection and insufficient reintegration and development support. Considering the intensity and scope of the crisis of internal displacement, improvements are needed to provide a more predictable and coherent response to situations of internal displacement, especially in the area of protection. An ongoing study by the Brookings Institution and the Refugee Policy Group, under the direction of the representative, has already made concrete suggestions for institutional reform, which have been disseminated, and are summarized in the various reports to the Commission on Human Rights. In 1997, a final set of proposals will be published, based on case studies and further analysis of the relevant institutions.

7. One particular development the representative would like to highlight is the increasing importance of the involvement of regional organizations. These organizations are in a position to adapt policies to regional realities, and also allow for innovative approaches to be transmitted both to affected countries within their regions and to the international system as a whole. It is essential that the capacities to cope with massive population displacement be strengthened at the local, national and regional levels. Several developments at the regional level merit reporting. The Organization for Security and Cooperation in Europe, over the past few years, has become involved with internally displaced persons in Tajikistan, Bosnia and Herzegovina, and in the Caucasus. The Organization of African Unity, through its conflict-prevention

mechanism, has been taking measures to defuse tensions before displacement occurs, and its Secretary-General has increasingly called attention to the need to address internal displacement on the continent. In 1995, the representative met with the Inter-American Commission on Human Rights of the Organization of American States, which subsequently took an important institutional step by appointing a rapporteur on internally displaced persons. The representative recommends that other regional bodies also consider establishing institutional mechanisms for the internally displaced.

8. Another important development at the regional level that should be noted was the organization in May 1996 of a Regional Conference to Address the Problems of Refugees, Displaced Persons, Other Forms of Involuntary Displacement and Returnees in the Countries of the Commonwealth of Independent States and Relevant Neighbouring States. The representative welcomes the wide range of initiatives proposed in the Programme of Action with regard to internal displacement. If effectively used as a framework for cooperation and action, the Programme of Action should result in the development of policies, legislation and institutions at the national level to cope better with the management of population displacement.

9. Since it is Governments that must bear the major responsibility for the plight of internally displaced persons, the programme of country visits undertaken by the representative, which emphasize solution-oriented dialogue with Governments, is one of the most important features of the mandate. It is particularly significant that country missions focus attention on specific crisis situations in the affected countries and make recommendations on what can be done by the Government concerned in cooperation with the international community, including governmental and non-governmental organizations, to alleviate the situation.

10. It is with the operational importance of country missions in mind that the representative considers it opportune to submit to the General Assembly the report on his June 1996 mission to Tajikistan, bearing in mind that the situation in that country continues to deteriorate and presents an ongoing challenge to the international community. The findings and recommendations in the report focus on the need for improved coordination between the Government and the humanitarian and development organizations operating within the country; the need to direct development activities into sustainable and self-reliant programmes; the need for continued efforts to strengthen human rights protection and the rule of law; and the importance of negotiating a comprehensive peace.

11. As has been emphasized repeatedly in the reports of the representative, country visits provide an important opportunity for a constructive exchange of views with Governments and other pertinent actors and also help raise the level of awareness within the country to the problem of internal displacement. Country visits, however, are bound to have a very limited impact unless there is appropriate follow-up. Constant monitoring is needed to ensure that situations are, in fact, improved and the recommendations arising from the representative's discussions with Governments and international organizations are carried out.

12. Building on the activities of the mandate over the past several years, in the year ahead, attention will continue to be focused on these three areas -

developing a legal framework, improving institutional arrangements at the international, regional and national levels, and enhancing the capacity of the mandate to play its catalytic role with Governments and international organizations more effectively.